

NO. 25054

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.
AHSAN ALIZAI, also known as Ahsen R. Alizar
and Ashan Alizar, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 01-1-0029)

SUMMARY DISPOSITION ORDER

(By: Watanabe, Acting C.J., Lim and Foley, JJ.)

Defendant-Appellant Ahsan Alizai (Alizai), also known as Ahsen R. Alizar and Ashan Alizar, appeals the February 12, 2002 Judgment of the Circuit Court of the First Circuit (the circuit court).¹ Alizai was charged by complaint with the following:

Count I: Unauthorized Entry into Motor Vehicle in violation of Hawaii Revised Statutes (HRS) § 708-836.5 (Supp. 2003);

Count II: Forgery in the Second Degree in violation of HRS § 708-852 (Supp. 2003).

Following a jury trial, at which Alizai represented himself *pro se*, Alizai was found guilty as charged on both counts.

¹The Honorable Marie N. Milks presided.

On appeal, Alizai contends the circuit court erred (1) in granting the State's Motion to Compel Psychiatric Examination of Defendant (Motion to Compel); (2) in denying Alizai's request to the court that it deny *nunc pro tunc* its earlier grant of the State's Motion to Compel; and (3) in denying Alizai's Hawai'i Rules of Penal Procedure (HRPP) Rule 48 Motion to dismiss charges against him.²

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues as raised by the parties, we hold that (1) the circuit court had a rational basis to order the mental examination of Alizai pursuant to HRS § 704-404(1) (1993), State v. Castro, 93 Hawai'i 424, 427, 5 P.3d 414, 417 (2000); (2) as there was a rational basis for the circuit court to order the mental examination, the circuit court properly denied Alizai's request to the court to deny *nunc pro tunc* its earlier grant of the State's Motion to Compel; (3) pursuant to HRPP Rule 48(c)(1), the circuit court properly excluded from its HRPP Rule 48 calculations the period of time the proceedings were stayed for the examination, State v. Soto, 63 Haw. 317, 320, 627 P.2d 279, 281 (1981).

²In his statement of points of error Alizai does not specifically raise the HRPP rule 48 issue; however, he does raise and address the issue in his argument section, and the State in its answering brief also addresses the issue.

Therefore,

IT IS HEREBY ORDERED that the February 12, 2002
Judgment of the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, January 20, 2004.

On the briefs:

Christopher R. Evans
for defendant-appellant.

Acting Chief Judge

Mark Yuen,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for plaintiff-appellee.

Associate Judge

Associate Judge